



Miami-Dade County Board of County Commissioners

Office of the Commission Auditor

Supplemental Legislative Analysis

Board of County Commissioners

Thursday, September 22, 2005

12:00 AM

Commission Chamber

Charles Anderson, CPA
Commission Auditor

111 NW First Street, Suite 1030
Miami, Florida 33128
305-375-4354

**Miami-Dade County Board of County Commissioners
Office of the Commission Auditor**

Supplemental Legislative Analysis

**Board of County Commissioners
Meeting Agenda**

Thursday, September 22, 2005

An updated written analysis for the below listed item is attached for your consideration in this Supplemental Legislative Analysis.

Item Number(s)

12(A)(1) (Supplement)	
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If you require further analysis of this or any other agenda items, please contact Guillermo Cuadra, Chief Legislative Analyst, at (305) 375-5469.

Acknowledgements--Analyses prepared by:

Guillermo Cuadra, Esq., Chief Legislative Analyst
Troy D. Wallace, JD, Legislative Analyst

LEGISLATIVE ANALYSIS

RESOLUTION APPROVING A SETTLEMENT AGREEMENT BETWEEN MIAMI-DADE COUNTY AND THE CITY OF CORAL GABLES FOR DELAYS IN COMPLETING SEWER LINE CONSTRUCTION

County Manager

I. SUMMARY

This resolution authorizes the execution of a Settlement Agreement between Miami-Dade County and the City of Coral Gables. The settlement amount of \$484,813.69 will compensate the City of Coral Gables for unforeseen delays in the completion of a new sewer line.

II. PRESENT SITUATION

On February 2, 2000, the County (WASD) and the City of Coral Gables entered into a contract for sale and purchase of building and property located at 4200 Salzedo Street (1.345 acres). The agreement required the County to complete the installation of a new sewage line on or before **June 30, 2003**, allowing the opportunity to divert certain sewage away from the City's sewage system. The disconnection from the Coral Gables sewer line was completed on **May 20, 2004**.

WASD encountered difficulties in meeting the deadline set forth in the agreement due to difficulties associated with the construction process. Staff reports that the unforeseen delays encountered by the WASD were a result of:

- ◆ Permit requirements
- ◆ Unforeseen underground utilities
- ◆ Unsuitable soil conditions

According to Coral Gables the County owes \$682,990.91 (See Attachment 1).

III. POLICY CHANGE AND IMPLICATION

The provisions of the original contract (see Resolution No. R-1304-99) state:

The parties agree to extend the Service Contract with the same terms and conditions until December 31, 2003. If SELLER fails to complete a new sewer line to divert the sewage flow from the BUYER's system by December 31, 2003, the SELLER shall pay to BUYER the amount of twenty-three cents (.23) per thousand gallons for all sewage from the SELLER which flows through the BUYER's system beginning January 1, 2004.

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- ◆ The County will pay the City of Coral Gables the amount of \$484,813.69.
- ◆ Upon receipt of said payment, the City shall execute in favor of the County a full satisfaction and release with respect to all obligations and/or set forth in the Contract for Sale and Purchase.

IV. ECONOMIC IMPACT

County's settlement payment to the City of Coral Gables for \$484,813.69.

V. COMMENTS AND QUESTIONS

- The proposed settlement amount is approximately 30% less than the amount billed by Coral Gables
 - Answers to questions related to the cause of the unforeseen delays were provided by the County Manager's Office as shown below:
 - Who were the permitting agencies?
 - **City of South Miami and Village of Pinecrest**
 - Specifically, what were the difficulties encountered in the permitting process?
 - **Restrictions on working hours**
 - **Maintenance of Traffic issues**
 - What were the issues regarding the underground utilities?
 - **Unknown utility conflicts**
 - Who owned the utilities?
 - **Communication Services providers**
 - **Gas utilities**
 - **Electric**
 - What were the specific unsuitable soil conditions?
 - **Additional "unsuitable materials" were uncovered in certain areas of the project**
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- How many gallons of County sewage does the City of Coral Gables believe flowed through the city's system during the relevant period of time? What is the County's estimate?
 - Are there discrepancies between the extension payment calculation (per 1,000 gallons used) we are using versus the City of Coral Gables?
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- The relevant issue is not related to the amount of sewage that flowed through Coral Gables' system or discrepancies between the County and Coral Gables payment calculation
 - The main issue is whether Force Majeure applies, meaning were the delays beyond the control of the County.
 - There were some delays beyond the County's control; however they were not significant when compared to the overall contract period
- Ultimately, how was the settlement amount of \$484,813.69 computed?
- Based on the application of the flow rate and proration of Capital Improvement Costs

<u>Sewage Flow</u> 12-31-96 – 5-20-04 (.1668 per 1,000 gal) =	\$400,325.10 ¹
<u>Shared Capital Costs</u> ²	\$ 84, 488.59
(Pump Stations G & F, Old Cutler Force Main Granada Bridge Force Main)	<u>\$484,813.69</u>

¹ Identified as "Additional Lump Sum Billing to WASD on South Miami Sewage Flow (retroactive to December 31, 1996)" on the Statement of Past Due Amounts (Attachment 1)

² Based on 8 years of use at 16.9% WASD Flow Share

City of Coral Gables
Public Works Department
285 Aragon Avenue
Coral Gables, FL 33134

ATTACHMENT 1

Statement of Past Due Amounts

To: MIAMI-DADE WATER AND SEWER DEPARTMENT
P.O. Box 330316
Miami, FL 33233-0316

Date: 6/1/2005

<u>Description</u>	<u>Invoice Number</u>	<u>Capital Cost</u>	<u>WASD %</u>	<u>WASD Share</u>	<u>WASD Share Totals</u>
Billing Adjustment to WASD on South Miami Sewage Flow for the period of February 2000 thru March 2001	10293				\$ 11,981.03
Additional Lump Sum Billing to WASD on South Miami Sewage Flow (retroactive to December 31, 1996)	9001				\$400,325.10
<i>Calculation of WASD's Share of Capital Cost:</i>					
Pump Station G	9001	\$ 261,000.00	16.9%	\$44,109.00	
Pump Station F	9001	\$ 278,180.00	16.9%	\$47,012.42	
Old Cutler Force Main	9001	\$ 400,000.00	16.9%	\$67,600.00	\$158,721.42
Granada Bridge Force Main Replacement	10293	\$ 396,387.00	16.9%		\$ 66,989.40
Total Capital Cost:		<u>\$1,335,567.00</u>			
Sub-Total:					© \$638,016.95
Note: South Miami Flow/Citywide Flow (Jan. 1997-May 2003) = 16.9%					
Miami-Dade Water & Sewer Authority Charges on South Miami Sewage Flow for February 2004 at 25,992,000 gal.					\$ 44,973.96
Total Due from WASD:					\$682,990.91